IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1730 OF 2005

Sandip Shukla ..Petitioner

Vs.

Shri.Moses B.Shejao & Anr. ..Respondents

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Mr.B.P.Pandey Advocate for Petitioner
Ms.Priya Rege for respondent no.1
Mr.R.S.Khadapkar A.P.P. for the State

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CORAM: SMT.V.K.TAHILRAMANI,J.
DATE : OCTOBER 10, 2005

P.C.

1. Heard the learned advocate for the petitioner-original accused, learned advocate for the respondent-original complainant and the learned A.P.P. for the State.

2. The petitioner is facing prosecution under Section 138 of Negotiable Instruments Act. The complaint is numbered as C.C.No.179/S/2005 and is pending before the learned Metropolitan Magistrate, 31st Court at Vikhroli, Mumbai.

3. In the said case, the petitioner i.e. original accused had preferred an application under Section 311 of Cr.P.C. for recalling of the complainant for conducting further cross-examination. The said application came to be rejected by the learned Magistrate by order dated 2.7.2005. Being aggrieved by the said order, this writ petition has been preferred.

4. From the record, it is seen that accused had engaged counsel who conducted detailed cross examination of the complainant on 28.6.2005. Thereafter, the evidence came to be closed and the matter was posted for recording statement of the accused under Section 313 of Cr.P.C. Thereafter, application for recall of witness was preferred by the petitioner. The learned advocate for the petitioner has submitted that certain questions remained to be put to the complainant in the cross-examination particularly on the point of legally enforceable liability of the accused and therefore, the complainant be recalled.

5. In the present case, it is seen that the petitioner was represented by advocate and detailed cross-examination of the complainant was conducted. The complainant had been cross-examined at length including on the point of legally enforceable liability. In this view of the matter, the prayer of the petitioner for recall of complainant, is not justified. The learned Magistrate has rightly rejected the said application.

6. Writ Petition is disposed of.

[V.K.TAHILRAMANI,J.]